

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 567

Docket No. 567
File 910728

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad Company
 (Former Missouri Pacific Railroad Company)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,
when C. A. Kennon and P. T. McGraw were dismissed from
service on August 6, 1991.

(2) Claim in behalf of Messrs. Kennon and McGraw for wage
loss suffered beginning August 6, 1991, until reinstated
with seniority, vacation and all other rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties
Agreement establishing this Board for that purpose.

Machine Operator Helper C. A. Kennon and Foreman P. T.
McGraw were involved in altercation on Company property on
July 12, 1991.

An investigation was conducted thereon on the charge
that they were involved in an altercation in which Mr.
Kennon sustained an injury. As a result thereof, Carrier
concluded them both to be culpable of the altercation and
they were dismissed from service as discipline therefor.

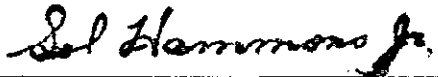
The Claimants were accorded the due process to which
entitled under Rule 12.

There was sufficient evidence adduced, including their
self admissions on P-62 and P-70, respectively, that they
were involved in an altercation with each other, to support
the Carrier's conclusion of culpability. The record
reflects that contrary to a situation of fighting by hands
each Claimant possessed a dangerous weapon, one an anvil and
the other a spike maul handle.

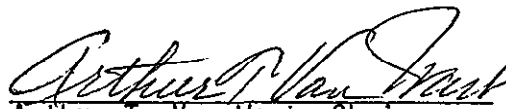
Despite their length of service, the particular
incident was one that the Carrier could not either tolerate
or condone. The record supports that conclusion.
Dismissal, particularly where, as here, weapons are
involved, is generally the appropriate remedy. See Third
Division Awards 211068, 23178 and 24748. Absence a showing
that the Carrier had acted arbitrarily or capriciously, the
Board has no basis in this record to support any

modification of discipline. Therefore, the claim shall be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


Kathy A. Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued December 19, 1992.